

**MINUTES OF THE  
NEW MEXICO COMMISSION OF PUBLIC RECORDS  
REGULAR MEETING  
August 24, 2004**

The New Mexico Commission of Public Records convened at 9:01 a.m., Tuesday, August 24, 2004, at the New Mexico State Library, Archives and Records Center, 1205 Camino Carlos Rey, in Santa Fe, New Mexico.

**MEMBERS PRESENT:**

Stanley Hordes, Ph.D., Chair	Historian
Kathy Rubio	Representing the Honorable Rebecca Vigil-Giron, Secretary of State
Kevin Lancaster	Designee for Thaddeus Bejnar, Secretary, Supreme Court Law Librarian
Deborah Moll	Designee for Edward J. Lopez, Jr., Secretary, General Services Department
Bergit Salazar	Representing the Director, Museum of New Mexico

**MEMBERS ABSENT:**

The Honorable Domingo Martinez	State Auditor
The Honorable Patricia Madrid	Attorney General
Edward Lopez, Jr.	Secretary, General Services Department

**STAFF PRESENT:**

Roberta Joe	Assistant Attorney General
Sandra Jaramillo	State Records Administrator
Judi Hazlett	Deputy State Records Administrator
Ruben Rivera	Administrative Assistant
John Martinez	Director, Administrative Law Division
Leo Lucero	Agency Analysis Bureau Chief, Records Management Division (RMD)
Michelle Ortiz	Records Management Analyst, RMD
Rita Seeds	Human Resources Bureau Chief
Estevan Rael-Gálvez, Ph.D.	State Historian

**GUESTS:**

Bill Taylor	Director, Property Control Division, General Services Department
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## **I. CALL TO ORDER:**

Chairman Hordes called the meeting to order at 9:01 a.m.

## **II. APPROVAL OF THE AGENDA:**

Chairman Hordes informed the Commission that there was not a representative from the Attorney General's Office and that Mr. Lama is no longer with the Attorney General's Office. Chairman Hordes was in the process of trying to get in contact with the Civil Division to find out who would represent the Attorney General's Office. Chairman Hordes entertained a motion for the approval of the agenda. Ms. Moll so moved. Ms. Rubio seconded the motion. The agenda was approved.

## **III. APPROVAL OF THE MINUTES: May 25, 2004 Meeting**

Chairman Hordes entertained a motion for the approval of the minutes of the meeting of May 25, 2004. Ms. Moll moved for approval of the minutes. Ms. Rubio seconded the motion. Mr. Lancaster then asked to make a minor correction on page five. He mentioned that Arlene Stummer should be spelled Strumor. Chairman Hordes called for a motion to approve the minutes as amended. All were in favor. The minutes were approved.

## **IV. ACTION ITEMS:**

### *Repeal and Replacement Retention Schedules: 1.18.305 NMAC*

Ms. Jaramillo introduced two new staff members: Ms. Rita Seeds, Human Resources Bureau Chief and Ms. Michelle Ortiz, Records Management Analyst. The first action item was 1.18.305 NMAC, Executive Records Retention and Disposition Schedule (ERRDS) for the Attorney General's Office. Mr. Mark Friedland, who worked on the schedule, did not get legal council to sign off on the schedules. As a result, it was not known whether or not the Attorney General's Office had reviewed the schedule and that the agency would like to have 1.18.305 NMAC withdrawn. Chairman Hordes agreed and considered it withdrawn for both the repeal and replacement of 1.18.305 NMAC.

### *New Retention Schedules: 1.18.465 NMAC*

Ms. Jaramillo introduced Mr. Lucero to report on 1.18.465 NMAC, ERRDS, Gaming Control Board. This was a new executive records retention and disposition schedule for the Gaming Control Board. As set forth in the Gaming Control Act, the primary functions of the Gaming Control Board include issuance, denial, suspension and revocation of all licenses required under the act, and enforcement of the provisions of the act. The Gaming Control Board also monitors all activity authorized in Indian Gaming Compacts and designates the state gaming representative responsible for actions of the state under the compacts. The Gaming Control Board is composed of five members: four appointed to staggered five-year terms by the governor with the advice and consent of the Senate, and one ex officio (the chair of the State Racing Commission). The schedule has been reviewed by Gaming Control Board, the State Records Center and Archives internal review committee and by legal counsel assigned to the Gaming Control Board. The additions were the law enforcement records and the state gaming representative records. Those two series were added. Chairman Hordes entertained a motion for approval for the Schedule. Ms. Moll so moved. Ms. Rubio seconded the motion. Chairman Hordes asked if there was a problem with the motion. Ms. Moll questioned if the retention, which is set at five years after the case is closed, was too short of a time period. Mr. Lucero responded by saying the Law Enforcement Division stated they only have five years on the limitations action. The prosecution files then go into a legal case before it goes any further. The legal case file is under the general records series. The motion passed and the schedule was approved.

Chairman Hordes asked if the next item on the agenda, FY06 Appropriation Request, could be dealt with after Building Issues under V. Old Business. The Commission agreed. However, Ms. Joe reminded the Commission that if items on the agenda were going to be rearranged, they have to be done when the agenda is approved. The Commission acknowledged and noted the reminder. Chairman Hordes then introduced Mr. Taylor of Property Control Division.

## **V. OLD BUSINESS:**

### *Building Issues*

Ms. Jaramillo explained to the Commission that the agency has continued working with Mr. Taylor of Property Control on outstanding building issues since its opening in 1998. One particular area of concern were the lightening rods that were supposed to have been installed in building B. Mr. Taylor informed Ms. Jaramillo that funds had now been found for installation of the lightening rods. Another concern was fire alarm upgrades that were an issue in the Fire Marshal report of October 2002. Third, drainage from the road on the south side of the building needs to be fully corrected. Fourth, the holes on the south wall need to be repaired. Fifth, the camera room in micrographics also shows leakage from the ceiling. Lastly, piles of sand and pavement, which were left since the completion of the Regulation and Licensing building, need to be removed.

Mr. Taylor reported that the lightening rod project had definitely gone forward. However, there were some delays with some of the parts that vender Gordon Electric had ordered. After receiving the parts it takes approximately one to two weeks to get it fixed. The mechanical room needs to be sealed with better sealant. A work order has been filed. Currently, there is a price agreement with Great Western Electric to fix the fire alarm system. Ninety-day contracts are usually awarded to them. Also, Mr. Taylor was pleased to see that most of the drainage from the ponds had been moving on and that the water from the College of Santa Fe was being redirected to go into the spillway. However, all of the coverts and drainage pipes in the complex have at least some debris in them and a work order has been given to Building Services to get them all cleaned out. In addition, Mr. Taylor reported that they had an engineer ready to do a study on the issue of drainage, but that it was delayed pending the City's plans on lowering Cerrillos Road over the next two years. Chairman Hordes again reminded Mr. Taylor of the absolute necessity of getting the drainage problem fixed as soon as possible because of the irreplaceable documentary sources that are held in the building. Mr. Taylor agreed. He then explained that work on the weed problem around the building would begin in the next week or two if it hadn't already been started. Lastly, he explained funding was in place for both the repairing of the wall on the south side and landscaping around the building.

Ms. Jaramillo reported to the Commission that Mr. Robert Sanchez of maintenance had been replaced by Mr. Henry Kavanaugh. She stated the agency's concern of such a replacement because of the months of extensive training Mr. Sanchez received when hired for the position as opposed to Mr. Kavanaugh who has gone through no such training. The trainings involved instruction on mechanical systems pertaining to the vaults, which include temperature and humidity controls as well as gaseous filtration systems. Another concern was on the issuing of security cards to get access to the building. Mr. Cavanaugh has not been trained in that particular area as well.

Ms. Hazlett then reported that some of the doors around the building had continued to be inconsistent in their locking mechanisms. Sometimes they lock and sometimes they don't. The security company from which the security system was purchased has been working on the problem consistently for the past few weeks.

#### **IV. ACTION ITEMS:**

##### *FY06 Appropriation Request*

Ms. Jaramillo initiated the discussion of the FY06 appropriation request by explaining that it originated with requests submitted by divisions; these then were compiled by Ms. Hazlett and adjusted, if necessary, based on agency need and strategic objectives. Ms. Jaramillo introduced Ms. Hazlett and the agency's Fiscal Officer, MaryAnn Baca, and Ms. Hazlett explained how the request was structured and how to read its various forms and reports. She noted that the agency had suffered a severe reduction in the "Other" category of the operating fund in its FY05 appropriation; the agency requested \$312,000 but only received \$244,000, and since many of the expenditures in the "Other" category are fixed, the agency is left with little flexibility to address its operational needs. She further explained that the underfunding in FY05 means that the FY06 request, in comparison, appears quite high. However, if compared to actual expenditures in FY04 and to the FY05 requested amount, it is not. The FY05 "Other" request represents an effort to match the level of the FY05 request in most line items. The increase over the FY05 request level is primarily attributable to costs beyond the control of the agency. For example, there is an increase of \$9,600 in GSD-dictated insurance rates. Likewise there is a significant increase in line item 57 - ISD charges. The agency does not know what is driving the insurance increase, since the agency has sustained no losses. The ISD increase represents the added costs to the agency for the Governor's IT consolidation plan - a plan that is supposed to produce savings but in the case of the SRCA has the opposite effect. Ms. Hazlett then discussed other major aspects of the request.

Ms. Hazlett continued with an explanation of the three expansion items included in the request. The agency's first expansion priority is the conversion of the Grant Administrator's position from the present 0.7 FTE to full time. One half of the position is now funded through the general fund and the remaining 0.2 through federal funds. The need is for a full-time position, and the agency has historically tried to secure additional federal funds to support the remaining, unauthorized 0.3 FTE; however, that funding has not always been reliable. Last year the agency asked for conversion from half-time to full-time but received instead authorization for the 20 percent of the position funded through a federal administrative grant. In the FY06 request, once again, the agency is trying to get the position authorized at full time. The second priority is for conversion of a half-time position located in the Electronic Records/Micrographics Bureau to full-time. The Bureau has only 2.5 positions, but its responsibilities have expanded in recent years, with the emphasis placed on electronic records and the increase in imaging applications used by State agencies. The last expansion request is for an additional \$20,000 to continue enhancement of the New Mexico history website. The agency initially received a \$15,000 special appropriation to develop and implement the basic site, and then additional funding for phase two was included in the agency's FY05 appropriation. The money requested in the FY06 appropriation submission would provide for integration of enhanced digital, audio and visual capabilities.

Following Ms. Hazlett's comments, Chairman Hordes entertained a motion for approval of the FY06 appropriation request. Mr. Lancaster moved approval, and Ms. Salazar seconded the motion. The motion passed unanimously.

##### *Strategic Plan 2005-2009*

Ms. Jaramillo reported on the Strategic Plan 2005-2009. The executive summary was expanded. The vision statement was revised to be the leading authority in the State on records management issues, governmental archives, administrative law, and public history programs. Included in the Strategic Plan are functional assessments, which relates to statutory authority of what an agency does. Also included are four additional performance measures. Lastly, the vision statement was revised. Chairman Hordes entertained a motion to endorse the Strategic Plan 2005-2009. Mr. Lancaster so moved. Ms. Salazar seconded the motion. The motion passed and the plan was approved.

## **V. OLD BUSINESS: (continued)**

### *Building Issues*

The next item on the agenda was a continuation of Building Issues under Old Business. Ms. Jaramillo had no further comments on building issues, but explained to those in attendance that she would report back to the Commission regarding her meeting with Secretary Lopez concerning maintenance issues in and around the building.

### *Confidential Records*

Ms. Jaramillo reported on confidential records. The Commission of Public Records sought to amend the Public Records Act during the last legislative session. House Bill 309 sets a limit on the confidentiality on certain records. It would allow them to be opened up after a certain amount of years for research. The bill made it through the House, but failed in the Senate. Chairman Hordes and Ms. Jaramillo met with Senator Sanchez last June to discuss the bill and what could be done to get his support for the bill. Senator Sanchez felt that by amending the language regarding the Legislative Council Service records, specifically increasing the number of years those records could remain confidential, he would then feel confident with supporting the bill. As a result, a meeting with Ms. Paula Tackett has been set up to draft new legislation to address some of Senator Sanchez's concerns.

### *Senate Joint Memorial 10 - State Ownership of Former Land Grants*

The next item Ms. Jaramillo reported on was Senate Joint Memorial 10 - State Ownership of Former Land Grants. Submitted was a report by Mr. Torrez, former State Historian, whom the agency contacted to conduct research and to submit a report to the Commission based on compliance with Senate Joint Memorial 10. The report was a preliminary analysis of a much wider study regarding which present State owned lands were previously common Spanish and Mexican Land Grants. Mr. Torrez revised the initial report based on his interpretation of Senate Joint Memorial 10 in which he initially thought that lands owned by the State universities fell outside the scope of the study. Mr. Torrez also clarified information regarding the encomienda system, which was not an allocation of land, but a means of exacting tribute via Indian Labor. Also, on page seven of the report, one paragraph was taken out. The paragraph pertained to the legitimacy of the Cruzate land grants.

Dr. Rael-Gálvez gave his approval of the report. He mentioned the importance of the report was that individual land grants had been identified in terms of state-owned land and that it was now a matter of simply going through the adjudication process to see what happened with those individual land grants and the acreage and identify specifically what acreage. The one element missing from the report was the remedial actions. Lastly, Dr. Rael-Gálvez and the Commission felt that university-owned lands should be included in the report and that specific descriptions on lands must be thorough and complete in the final report.

Chairman Hordes expressed a major concern over the United States General Accounting Office's lack of understanding regarding the history of New Mexico and the land grant issue. However, one very positive point was the recommendation at the end of the report to establish a commission to do a thorough study. Also, Chairman Hordes mentioned the unrealistic expectation of the legislature to expect a huge volume for the study when there was zero appropriation for Senate Joint Memorial 10. Ms. Joe advised the Commission or State Historian to first write a cover letter describing what has been done. Then send two letters along with a status report to both the legislature and the Attorney General by the November 1, 2004 deadline.

### *Disposition of Unusable Tangible Property (computers)*

The next item on the agenda was the Disposition of Unusable Tangible Property (Computers). Ms. Jaramillo explained that the agency had disposed of some obsolete computers, monitors, and keyboards. According to Chapter 13, Article 6, Section 1 of 1978 SRCA was to notify the State Auditor and it was done. They were donated to Wherry Elementary School in Albuquerque.

**VI. DIRECTOR'S REPORT:**

Lastly, Ms. Jaramillo again introduced Ms. Michelle Ortiz and Ms. Rita Seeds who were hired to fill the Management Analyst position and the Human Resources Bureau Chief position. She also mentioned the Secretary position in Archives and Historical Services was vacant and that advertisements for the positions of Computer Systems Analyst, the Assistant to the State Historian, and the replacement for the Records Management Division Director had gone forward.

**VII. SCHEDULING OF NEXT MEETING:**

Chairman Hordes discussed the last item on the agenda, the Scheduling of Next Meeting. Tuesday, December 7, 2004 was agreed upon.

**VIII. ADJOURNMENT:**

Chairman Hordes asked if there were any further questions or comments on the part of the Commission or those in attendance. There were none. He then entertained a motion for adjournment. Ms. Moll so moved. Ms. Rubio seconded the motion. The motion was approved. The meeting adjourned at 10:57 a.m.